

EMPLOYMENT APPEALS BOARD DECISION
2017-EAB-0873

Affirmed
Disqualification

PROCEDURAL HISTORY: On June 16, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 100017). Claimant filed a timely request for hearing. On July 17, 2017, ALJ Sgroi conducted a hearing, and on July 19, 2017 issued Hearing Decision 17-UI-88305, affirming the Department's decision. On July 21, 2017, claimant filed an application for review with the Employment Appeals Board (EAB).

Claimant failed to certify that she provided a copy of her argument to the other parties as required by OAR 471-041-0080(2)(a) (October 29, 2006). The argument also contained information that was not part of the hearing record, and failed to show that factors or circumstances beyond claimant's reasonable control prevented her from offering the information during the hearing as required by OAR 471-041-0090 (October 29, 2006). We considered only information received into evidence at the hearing when reaching this decision. *See* ORS 657.275(2).

FINDINGS OF FACT: (1) Gina's Dry Cleaner's employed claimant as a presser from April 21, 2013 to May 22, 2017.

(2) Claimant had concerns about her working conditions. After arriving at work on May 16, 2017, claimant learned that her significant other had attempted suicide and left work. The employer had scheduled claimant to work on May 17, May 18 and May 19. On May 17, claimant called the manager and asked for time off work to take care of her personal matters. Claimant planned to return to work on May 22, 2017.

(3) Between May 16, 2017 and May 22, 2017, claimant's ex-husband told claimant that his mother, who also worked for the employer, mentioned knowing about claimant's significant other's suicide attempt. Claimant assumed that the manager or owner had disclosed that information to her ex-mother-in-law, and felt upset and uncomfortable that they were talking about her personal business.

(4) On May 22, 2017, the manager called claimant to check on her. Claimant told the manager that she did not like how she was being treated at work, that she had been told that she was lying about her significant other's suicide attempt and using the time off to look for another job, and that they had discussed her personal business with the whole shop. The manager said she did not know how claimant's ex-mother-in-law found out, but that the manager did not tell her and that she must have overheard something. The manager suggested claimant talk to the owner. Claimant told the manager that she was not going to return to work and quit work, effective immediately.

CONCLUSIONS AND REASONS: Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless she proves, by a preponderance of the evidence, that she had good cause for leaving work when she did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). "Good cause" is defined, in relevant part, as a reason of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have no reasonable alternative but to leave work. OAR 471-030-0038(4) (August 3, 2011). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P3d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for her employer for an additional period of time.

Claimant quit work because she believed management had gossiped about her personal business with other workers. She was uncomfortable returning to work at a place where the owner and/or manager did not respect her privacy. Although claimant concluded that the owner or manager had been the ones to disclose her personal business to others, claimant did not testify that her ex-husband or ex-mother-in-law specifically identified either the owner or the manager as the person who had talked about claimant's personal business with the ex-mother-in-law, the manager denied having done so, and claimant did not ask the owner if she had done so. Claimant's unconfirmed belief that the owner and/or manager had discussed her personal business therefore did not amount to a situation of gravity. Moreover, a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would, under the circumstances, have asked her ex-mother-in-law who told her about claimant's personal business, discussed the matter further with the owner and/or manager, asked them not to discuss her personal business without permission in the future, or taken other such steps rather than quitting work under the circumstances.

For those reasons, we conclude that claimant voluntarily left work without good cause. She is therefore disqualified from receiving unemployment insurance benefits because of this work separation.

DECISION: Hearing Decision 17-UI-88305 is affirmed.

J. S. Cromwell and D. P. Hettle;
Susan Rossiter, not participating.

DATE of Service: August 14, 2017

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and

information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at courts.oregon.gov. Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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